

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

RIGOBERTO GONZALEZ-CARRIEON	§	
v.	§	CIVIL ACTION NO. 6:16cv1316
		Crim. No. 6:15cr50(1)
UNITED STATES OF AMERICA	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Movant Rigoberto Gonzalez-Carrieon, proceeding *pro se*, filed this motion to vacate or correct his sentence under 28 U.S.C. §2255, complaining of the validity of his conviction. This Court referred the matter to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

After review of the pleadings, the Magistrate Judge issued a Report recommending that Gonzalez-Carrieon's motion to vacate sentence be denied. A copy of this Report was sent to Gonzalez-Carrieon's last known address, return receipt requested, but was returned as undeliverable because Gonzalez-Carrieon had been transferred to the custody of the Department of Immigration and Customs Enforcement. Because no objections to the Report have been received, Gonzalez-Carrieon is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has examined the pleadings in this cause and the Report of the Magistrate Judge and has concluded that this Report is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th

Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 3) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled motion to vacate or correct sentence is **DISMISSED WITH PREJUDICE**. It is further

ORDERED that the Movant Rigoberto Gonzalez-Carrieon is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**. A copy of this Order of Dismissal and the Final Judgment shall be entered on the docket of the criminal case of *United States v. Gonzalez-Carrieon*, crim. no. 6:15cr50(1).

So Ordered and Signed

Apr 20, 2018



Ron Clark, United States District Judge